

UNITED STATES SENATOR • IOWA  
**CHUCK GRASSLEY**  
RANKING MEMBER • SENATE COMMITTEE ON FINANCE

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<http://grassley.senate.gov>  
[press\\_office@grassley.senate.gov](mailto:press_office@grassley.senate.gov)

Contact: Jill Kozeny, 202/224-1308  
Jill Gerber, 202/224-6522

For Immediate Release  
Thursday, April 4, 2002

Grassley Seeks to Protect Consumers from Misleading Charities

WASHINGTON – Sen. Chuck Grassley, ranking member of the Committee on Finance, today asked the Department of Justice, the Internal Revenue Service and the Federal Trade Commission a series of questions to gauge their engagement in protecting consumers from misleading charities, particularly those focused on granting wishes to sick children. Grassley's letters to those agencies follow.

April 4, 2002

Via Regular Mail and Facsimile: DOJ 202-514-4507; IRS 202-622-5756

The Honorable John D. Ashcroft  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

The Honorable Charles O. Rossotti  
Commissioner of Internal Revenue  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Re: Misleading Children's Wish-Granting Charities

Gentlemen:

As Ranking Member of the Senate Committee on Finance (Committee), I am committed to help ensure that charitable contributions to United States-based charities are timely distributed to qualified recipients. I believe that oversight of charities and foundations should also be part and parcel of the President's charitable initiatives to ensure that our citizens' tax dollars are spent appropriately and to strengthen our nation's trust in its charitable institutions.

Today I write to draw your attention to the problem of misleading charities that may be

defrauding taxpayers who donate their hard-earned money to worthwhile causes that may, in reality, receive little of those funds. Particularly after September 11, perhaps it is not surprising but nonetheless lamentable that the funds contributed to an ever-expanding number of tax-exempt organizations are not used for the charitable purposes for which they were created. These misleading charities raise millions of dollars in donations through deceptive and otherwise questionable fund-raising tactics, but they spend only a small percentage of those amounts, if any, on legitimate charitable activities. Instead, contrary to what donors are led to believe, the bulk of the donated funds is used to pay exorbitant fund-raising fees as well as excessive salaries, consulting fees, and other administrative expenses.

The problem appears to be particularly prevalent in the field of charitable wish-granting organizations. Perhaps because of the compelling nature of their mission, such organizations appear to be especially prone to exploitation. Although there are many credible and ethical wish-granting organizations in the United States, a number of unscrupulous individuals have apparently found raising money to grant sick children's wishes to be pretexts for fraudulent and deceptive fund-raising practices.

While I discuss these concerns about charities in the abstract, I would like to cite you a real-life example to illustrate my concerns. The Republican Finance Committee's investigation of misleading charities has identified Children's Wish Foundation International, Inc. (CWFI) as a purported wish-granting charity that may be engaging in deceptive fund-raising tactics. During the past decade, CWFI has been the subject of investigations, administrative proceedings, and lawsuits initiated by charity regulators in several states based on a variety of alleged fund-raising and financial reporting improprieties. CWFI has also been the focus of a number of investigative reports in the media over the years for these reasons as well as for the questionable manner in which it seeks to fulfill its tax-exempt purpose.

It is my understanding that according to CWFI's submitted Internal Revenue Service (IRS) Forms 990, Return of Organization Exempt From Income Tax, CWFI has received total revenues in excess of \$131.9 million in the last 10 reported years. Of this amount, CWFI may have only spent approximately \$10.1 million – approximately 8% – on actual "wish fulfillment." In this same time period, it appears that CWFI may have paid more than \$82.5 million to telemarketers, some of whom are alleged to have engaged in fraudulent, deceptive or otherwise questionable telephone solicitations.

Because of alleged misleading financial reporting and solicitation techniques utilized by CWFI and its contractors or other representatives over the years, I question whether American citizens are aware that only about eight cents of every dollar that they donate to CWFI might be used to grant sick children's wishes. It also appears that CWFI may have misrepresented millions of dollars paid to telemarketers as so-called "production services" instead of more accurately listing such amounts as "professional fund-raising fees" on Line 30 of its Forms 990.

Moreover, in 1992 and 1994, respectively, the State of Connecticut (Connecticut) and the Commonwealth of Pennsylvania (Pennsylvania) filed lawsuits against CWFI essentially challenging the inclusion of alleged "in kind" donations of damaged, outdated or obsolete merchandise to other charities as "program-related" expenses on its 1990 and 1991 Forms 990. Both lawsuits alleged that CWFI substantially overvalued this practically worthless merchandise in order to inflate the percentage of income that it spent on program services (as compared to "fund-raising" or "management & general" expenses), thereby making it appear that CWFI's operations were more efficient than they actually were.

Among the gifts-in-kind challenged by Connecticut and Pennsylvania were 3,375 copies of Principles of Accounting, a textbook written in English that CWFI reportedly sent to children's hospitals in Romania, and 3,702 cases of perishable food products that CWFI valued at \$240,630 despite the fact that the food had been valued by the original donor at \$32,577 and was allegedly beyond or imminently near its freshness expiration date. According to the Pennsylvania lawsuit, CWFI was able to qualify for participation in the Combined Federal Campaign (CFC) by including such grossly overvalued items on a specially-prepared Form 990 submitted under the pretense that CWFI had changed its fiscal year. As you know, CFC is a program through which federal employees are able to donate to eligible charities. CWFI's strategy enabled its participation in the Fall 1991 CFC campaign, which resulted in its acquiring \$420,000 in CFC contributions for which it allegedly did not qualify and otherwise would not have received. However, as part of the settlement that CWFI reached with Pennsylvania, CWFI subsequently released its claims to these and other contributions in the approximate amount of \$470,000.

In October 2000, Pennsylvania initiated another action against CWFI on grounds that it made "material false statements" on its 1998 Form 990 by dramatically overstating – by a multiple of 10 or more – the value of gifts-in-kind sent to 41 Ronald McDonald Houses across the country including in Sioux City, Iowa. Ronald McDonald Houses provide a "home-away-from-home" for families of seriously ill children who are receiving treatment at nearby hospitals. In Sioux City, for example, Pennsylvania alleges that CWFI reported on its Form 990 for the period of July 1, 1998, through June 30, 1999, the value of gifts as over \$52,000 when their fair market value was \$2,000.

Also at issue in this second Pennsylvania proceeding is the use of donated funds by CWFI's principals for first-class travel to Europe, Aruba, Puerto Rico, and other destinations as well as stays at four-star and five-star luxury hotels and casinos, and other deluxe resorts. Pennsylvania has questioned whether these and other expenditures made using the corporate charity credit card, such as hosiery, silk slips, and kimonos purchased at Victoria's Secret as well as Christmas and baby gifts purchased at Tiffany & Co., were consistent with CWFI's charitable purpose.

On a related note, I have recently learned that Americans are receiving telephone solicitations from fund-raisers located offshore to possibly avoid U.S. telemarketing laws. I am aware of three instances where U.S. citizens have received telephone solicitations from telemarketers who claim to be located in the Philippines and who fraudulently misrepresent themselves as affiliated with the Make-A-Wish® Foundation of America (Make-A-Wish). Make-A-Wish is a well-respected charity that grants the wishes of children with life-threatening illnesses and, unlike CWFI, does not engage in any telemarketing activities. One of the citizens who agreed during the call to make a donation to "Make-A-Wish" subsequently received written information about CWFI. This information was not mailed from the Philippines but from the Pittsburgh, Pennsylvania, address of CWFI's primary telemarketer, Reese Brothers, Inc. (Reese Brothers). Reese Brothers has received in excess of \$49.6 million since it was hired by CWFI in 1996.

Confusion as to the identity of these charitable wish-granting organizations does not appear to be altogether accidental. Mark Reed, the President and CEO of the Make-A-Wish® Foundation of Iowa, has personally responded to numerous complaints from Iowans who have received telemarketing calls supposedly from "Make-A-Wish" but actually from CWFI and/or Reese Brothers. I have separately expressed my concerns about Reese Brothers' seemingly deceptive telemarketing practices to the Honorable Timothy J. Muris, Chairman of the U.S. Federal Trade Commission (FTC), and have enclosed a copy of that letter for your consideration.

Moreover, I want to inform Mr. Rossotti of IRS Criminal Investigation's (CI) apparent

inattention to a congressional complaint about CWFI's allegedly fraudulent operations. Last fall, I requested that CI investigate allegations made by Pennsylvania's Bureau of Charitable Organizations against CWFI, emphasizing the importance of said investigation to this Committee's broader investigation of misleading charities. I also requested that CI keep the Committee informed of any investigation relating to CWFI. To date, the Committee has not heard from CI.

Although the vast number of charitable organizations are worthy organizations that deserve to be generously supported, it is unfortunate that a few are fraudulent, employ deceptive solicitation practices or mislead the public by submitting false or inaccurate Forms 990. Given the importance of these issues to our society and its citizens, I appreciate that you provide your responses to the following questions to the Committee:

For IRS:

1. It appears that CWFI may be engaging in fraudulent or deceptive fund-raising practices and utilizing questionable financial reporting tactics to conceal the fact that its primary reason for raising money is not to grant children's wishes but, rather, to line its own pockets. I appreciate that there be many reasons why IRS does or does not audit or investigate a tax-exempt entity. That said, does IRS intend to investigate CWFI for their activities as described in this letter or otherwise? If your answer is in the affirmative, I request that you keep the Committee informed of the progress of your investigation including any prosecutory referrals. If the answer is in the negative, explain why not. Further, has CI has opened an investigation concerning CWFI? If not, explain why not. If so, explain why CI has not kept the Committee informed of any such investigation.

2. During the past five (5) years, state the number of state agency referrals and other complaints IRS has received relating to alleged tax fraud or deception by charities. For each such referral or complaint, please: (a) identify the organization in question as well as the person or persons who made the referral or complaint; (b) describe in detail the action IRS took regarding the matter; and (c) state the disposition of the referral or complaint.

3. At what point, and under what circumstances, does IRS consider revoking the tax-exempt status of misleading charities like CWFI? Please describe the process in detail, including in your response all of the criteria you consider.

4. To what extent, if any, does IRS scrutinize Forms 990 filed by charities to see if they include program-related expenses of overvalued in-kind donations of essentially worthless merchandise (like accounting textbooks supposedly intended for Romanian children, outdated or unusable food products, etc.) to other charities? Please explain your answer, and include the Form 990 audit coverage rate for the past 10 years. Explain whether the rate is consistent across all exempt organizations or whether it varies by gross receipts.

5. As stated in this letter, CWFI may have hidden its extensive telemarketing expenses under a self-styled heading, "production services," rather than list such amounts on its Forms 990, Line 30. Describe any IRS procedure that explains how IRS considers such novel categories used by tax-exempt entities to report their expenses or income. Moreover, state whether IRS subjects such categories to additional scrutiny to determine whether such categories or the expenses or incomes that they represent are allowable under the Internal Revenue Code (IRC). If your answer is in the negative, explain why not.

6. I am aware that the National Association of Attorneys General and National Association of State Charity Officials (NAAG/NASCO) have urged that the provisions of IRC Section 6103 be relaxed to permit IRS to share certain examination information and records for IRC Section 501(c)(3) organizations with appropriate state agencies for limited use. Explain whether IRS shares NAAG/NASCO's view on this subject.

7. Does IRS have any other suggestions for encouraging more effective cooperation between IRS and state charity regulators in identifying and prosecuting questionable charities that raise millions of dollars through fraudulent or misleading fund-raising tactics but spend only a small percentage of those amounts on legitimate charitable activities? If so, please describe those suggestions in detail. In answering this and the questions above, please state whether there is any impediment under current law that prevents your agency from auditing or investigating, or taking any remedial action against charities engaging in fraudulent or deceptive practices.

For the Department of Justice (DOJ):

8. Does DOJ have jurisdiction where telephone solicitors located in a foreign country commit telemarketing fraud while soliciting donations from American citizens on behalf of a U.S.-based charity? Please describe how DOJ goes about enforcing the provisions of 18 U.S.C. Section 2325 (i.e., crimes relating to telemarketing fraud) under such circumstances. Also, please include in your answer DOJ's efforts to work with FTC given its recently-acquired jurisdiction pursuant to the USA PATRIOT Act of 2001, which includes a "Crimes Against Charitable Americans Act."

9. Will DOJ investigate CWFI and/or Reese Brothers regarding any of the complaints outlined in this letter? If your answer is in the affirmative, I request that you keep the Committee informed of the progress of your investigation and any actions taken as a result thereof. If your answer is in the negative, explain why not.

Your cooperation in responding to these requests by May 2, 2002, is appreciated.

Sincerely,

Charles E. Grassley  
Ranking Member

Enclosure

CC Via Hand Delivery

Senator Max Baucus, Chairman, Senate Committee on Finance

CC Via Regular Mail

Mr. John Bridgeland  
Assistant to the President  
Director of USA Freedom Corps  
White House

1600 Pennsylvania Ave NW  
Washington, D.C. 20500

Mr. Mark E. Matthews  
Chief  
Internal Revenue Service Criminal Investigation  
1111 Constitution Avenue, NW  
CI: S: LL - Room 2531  
Washington, D.C. 20224  
Facsimile: (202) 622-7613

April 4, 2002

Via Regular Mail and Facsimile: (202) 326-3585

The Honorable Timothy J. Muris  
Chairman  
U.S. Federal Trade Commission  
6<sup>th</sup> & Pennsylvania Avenue, NW  
Washington, D.C. 20580

Re: Offshore Telemarketing Fraud

Dear Chairman Muris:

As Ranking Member of the Senate Committee on Finance (Committee), I am committed to help ensure that charitable contributions to United States-based charities are timely distributed to qualified recipients. I believe that oversight of charities and foundations should also be part and parcel of the President's charitable initiatives to ensure that our citizens' tax dollars are spent appropriately and to strengthen our nation's trust in its charitable institutions. Today I write to draw your attention to a problem that has surfaced during the Republican Finance Committee staff's investigation of misleading charities that may be engaging in deceptive fund-raising tactics.

Recently, I have learned that Americans are receiving telephone solicitations from fund-raisers located offshore to possibly avoid U.S. telemarketing laws. I am aware of three instances where U.S. citizens have received telephone solicitations from telemarketers who claim to be located in the Philippines and who fraudulently misrepresent themselves as affiliated with the Make-A-Wish<sup>®</sup> Foundation of America (Make-A-Wish). One of the citizens who agreed during the call to make a donation to "Make-A-Wish" subsequently received written information about another charity, Children's Wish Foundation International, Inc. (CWFI). This information was not mailed from the Philippines but, rather, from the Pittsburgh, Pennsylvania, address of Reese Brothers, Inc.

By way of background, Make-A-Wish is a well-respected charity that grants the wishes of children with life-threatening illnesses and does not engage in any telemarketing activities whatsoever. CWFI is a purported wish-granting charity located in Atlanta, Georgia, that, over the past decade, has been the subject of investigations, administrative proceedings, and lawsuits initiated by charity regulators in several states for a variety of alleged fund-raising and financial reporting improprieties. Reese Brothers is CWFI's primary telemarketer and has received in excess of \$49.6 million since it

was hired by CWFI in 1996.

This confusion as to the identity of the charitable wish-granting organization does not appear to be accidental. Although there are many credible and ethical wish-granting organizations in the United States, a number of unscrupulous individuals have apparently found raising money to grant sick children's wishes to be pretexts for fraudulent and deceptive fund-raising practices. Mark Reed, the President and CEO of the Make-A-Wish® Foundation of Iowa, has personally responded to numerous complaints from Iowans who have received telemarketing calls supposedly from "Make-A-Wish" but actually from CWFI and/or Reese Brothers.

I question whether this apparently recent decision on the part of CWFI and/or Reese Brothers to telemarket American citizens from the Philippines has anything to do with the fact that on October 25, 2001, President Bush signed into law the USA PATRIOT Act of 2001. This law includes a "Crimes Against Charitable Americans Act" that imposes disclosure requirements upon persons "engaged in telemarketing for the solicitation of charitable contributions," empowers your agency to expand its Telemarketing Sales Rules to include additional disclosure requirements for charitable solicitation calls, and amends the federal criminal statute proscribing telemarketing fraud to bring charitable telephone solicitations within its reach.

Even if the timing of CWFI's and/or Reese Brothers' decision to commence offshore telemarketing were merely coincidental, I am concerned about your agency's ability to enforce its Telemarketing Sales Rules when offending telemarketers are located more than 8,000 miles away from U.S. soil. To help safeguard American donors from telemarketers who engage in fraudulent or deceptive "charitable" solicitations, and particularly those soliciting offshore, I appreciate your responses to the following questions:

1. Will the Federal Trade Commission (FTC) investigate CWFI or Reese Brothers for the activities described in this letter? If your answer is in the affirmative, I request that you keep the Committee informed of the progress of your investigation including any referral to a law enforcement agency for prosecution. If your answer is in the negative, explain why not.

2. I am aware that FTC has previously expressed its view that there is "no doubt that sellers or telemarketers located outside the U.S. are subject to the [Telemarketing Sales Rules] if they telemarket their goods or services to U.S. consumers." Will your agency's opinion remain the same with respect to charitable telemarketing, especially in view of the provisions of the USA PATRIOT Act of 2001? Also, describe how FTC's view on this subject has been adequately communicated to the public and, particularly, to those involved in the telemarketing industry.

3. Explain how FTC identifies and stops fraudulent or deceptive fund-raising activity committed by U.S.-based entities through their agents located offshore. Please include in your answer whether FTC works with federal, state or local charity regulators or other law enforcement agencies to identify illegal fund-raisers. If your answer is in the negative, explain why not.

4. For the past five years, state: (a) the number of U.S.-based telemarketing entities soliciting from offshore that FTC has investigated; (b) the number of such entities FTC has penalized or referred for prosecution as well as the reason for the penalty or referral; and (c) the nature and amount of the penalty imposed. Moreover, identify any such entities that currently engage in telemarketing or other fund-raising despite a prior penalty from FTC or other law enforcement agency, and explain why each such entity was allowed to resume its activities despite such penalty. Finally, explain what FTC is doing, if anything, to ensure that any such entity's current telemarketing

or general fund-raising practices comply with U.S. law.

Please note that I have separately expressed my concerns about CWFI's alleged fund-raising and financial reporting improprieties to the Honorable John D. Ashcroft, Attorney General, United States Department of Justice, and to the Honorable Charles O. Rossotti, Commissioner, Internal Revenue Service. I enclose a copy of that letter for your consideration.

Your cooperation in responding to these requests by May 2, 2002, is appreciated.

Sincerely,

Charles E. Grassley  
Ranking Member

Enclosure

CC Via Hand Delivery

Senator Max Baucus, Chairman, Senate Committee on Finance

CC Via Regular Mail

Mr. John Bridgeland

Assistant to the President, Director of USA Freedom Corps

White House

1600 Pennsylvania Ave NW

Washington, D.C. 20500